CRP 419/2007
BEFORE
HON'BLE MR JUSTICE B D AGARWAL

Heard Shri A S Choudhury, learned Senior counsel for the petitioner. Also heard Shri S N Sarma, learned Standing counsel for the respondents.

This revision application is directed against the order dated 12.12.2003, passed by the learned Munsiff No. 1, Karimganj in Misc Case No. 137/2003 as well as the order dated 16.10.2007 passed by the learned Civil Judge, Karimganj in Misc Appeal No. 1/2004, rejecting the prayer for temporary injunction in favour of the plaintiff/petitioner.

As could be seen from the documents M/s. J C Roy & Company was given the dealership of POL at Karimganj under the terms and conditions set out in the letter dated 30.8.1985. Thereafter, there was a change in the status of the partnership firm i.e. M/s. J C Roy & Company. Ultimately, the husband of the present petitioner Late Bipul Kuma Das inherited the property by a deed of dissolution of partnership dated 31.3.1999. Thereafter, the petitioner's husband also died sometime in the month of May 1999. In view of these developments the Indian Oil Corporation stopped the supply of POL. It was followed by the cancellation of the dealership dated 21.3.2005.

Apprehending dispossession from the Petrol Pump site, the petitioner Smt. Archana Das has instituted the Title Suit No. 198/2003 seeking declaration that she is the sole proprietor of the firm namely M/s. J C Roy & Company with further declaration to direct the defendants to recognize the plaintiff as the owner of the Petrol Pump. The petitioner has also prayed for permanent injunction restraining the defendants not to interfere with the dealership and possession of the plaintiff's firm.

Initially an ad interim preventive order in the form of 'status quo' was granted. Upon hearing both the sides, the said interim was also vacated which has been also affirmed by the Civil Judge in Misc Appeal No. 1/2004. Being aggrieved with the order of the appellate Court, this revision application has been filed.

While arguing the case today, Shri Choudhury, learned Senior counsel for the petitioner did not press for any order so as to direct the respondents to continue the supply of POL products or not to interfere with the dealership issued in the name of M/s. J C Roy & Company at this stage. In other words, the learned senior counsel has submitted that under the garb of impugned order, the respondents are likely to dispossess the plaintiff/petitioner from the suit property i.e. the petrol pump.

On the other hand, Shri S N Sarma, learned standing counsel for the respondents, submitted that the entire property of the petrol pump belongs to the Indian Oil Corporation and since the dealership has already been terminated, the respondents are entitled to take the property in their possession.

From the impugned orders I find that no finding or observation has been made whether the property of the petrol pump belongs to the Indian Oil Corporation or the Dealer. In such an eventuality this Court cannot pass any order restraining the respondents from taking possession of the property. However, in the interest of justice, it would be proper to direct the respondents to approach the trial Court seeking permission for taking possession of the property. If any such application is filed, the trial Court shall pass appropriate order as early as possible, upon hearing both sides. Any such order would be in the nature of clarification of the earlier orders rejecting the prayer for temporary injunction.

With the aforesaid observations, this revision petition stands disposed of.